

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES of AMERICA,

4 -against-

S1 19 CR 35
Plea

5 DARRELL JONES,

6 Defendant.
7

8 -----x
9 United States Courthouse
10 White Plains, New York

11 May 9, 2019

12 B e f o r e: THE HONORABLE LISA MARGARET SMITH,
13 District Court Magistrate Judge

14 GEOFFREY S. BERMAN
15 United States Attorney for
the Southern District of New York
16 SAMUEL RAYMOND
17 Assistant United States Attorney

18 FEDERAL DEFENDERS OF NEW YORK INC. (WHITE PLAINS)
19 ATTORNEYS for Defendant
20 BY: SUSANNE BRODY
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1 THE CLERK: In the matter of the United States of
2 America versus Darrell Jones.

3 Counsel, please note your appearance for the record.

4 MR. RAYMOND: Good afternoon, your Honor. Sam
5 Raymond for the United States.

6 THE COURT: Good afternoon, Mr. Raymond.

7 MS. BRODY: Good afternoon, Judge. Susanne Brody
8 with Darrell Jones.

9 THE COURT: Good afternoon, Ms. Brody.

10 MS. BRODY: Your Honor, we're here today because the
11 government has filed a superseding information. My client is
12 prepared to waive indictment and proceed with the superseding
13 information.

14 Additionally, when we get to that part of the
15 program, the case has been previously assigned to Judge Román
16 who has referred the plea to this Court. My client today is
17 prepared to plea to the super -- two-count superseding
18 information and the plea will be entered pursuant to an
19 April 18 plea agreement with the government.

20 And we also have signed for the Court the waiver of
21 the Article III Judge.

22 THE COURT: Thank you.

23 Mr. Jones, I want to advise you that this is not a
24 trial. It is my understanding that you have decided to enter a
25 plea of guilty in this case. This proceeding is for the

1 purpose of ensuring that you are aware of your rights in
2 connection with that plea, and that any waiver of those rights
3 is knowing and voluntary, prior to entering your plea of
4 guilty, if you still decide to do that.

5 During this proceeding, I will also ask you some
6 questions to make sure that you are competent to plead guilty
7 and by that I mean that I need to determine whether you are
8 able to understand what is going on here today, and that you
9 are not under the influence of any physical or mental or
10 emotional condition, or affected by any controlled substance
11 which may impact upon your ability to understand what is going
12 on.

13 Do you understand that?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Mr. Jones, if at any time you do not hear
16 or understand what I say to you, I want you to interrupt me so
17 that I can repeat and explain what I've said, and so that you
18 can have an opportunity to consult with Ms. Brody to make sure
19 that you've heard and understood everything I've said and
20 everything I've asked you.

21 Do you understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And will you do that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: You have an absolute right to be

1 represented by counsel at this and at every stage of the
2 proceedings against you, and you have the right to consult with
3 your attorney prior to answering any questions.

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: For that reason, you should consult with
7 Ms. Brody before answering any further questions, including
8 questions that I'm going to ask you during this proceeding.

9 Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Mr. Jones, if you were to become
12 unsatisfied with Ms. Brody's services, you would be entitled to
13 apply to the Court for a new attorney to represent you, and if
14 the Court was still satisfied that you could not afford to hire
15 a lawyer and that there was an appropriate reason to relieve
16 your current lawyer, a new lawyer would be appointed to
17 represent you with no cost to you.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Ms. Embola, would you place the defendant
21 under oath or affirmation, please.

22 (Darrell Jones sworn)

23 THE COURT: It is important for you to understand
24 that if you knowingly make a false statement during these
25 proceedings, you could be subject to prosecution for the crime

1 of perjury, or for making a false statement to the Court, and
2 you could face a punishment of up to five years in prison, and
3 a \$250,000 fine for committing such a crime. Such punishment
4 would be separate and apart from any sentence you may be facing
5 on the crimes charged in the superseding felony information or
6 the underlying indictment. In addition, any statement that you
7 make during this proceeding may be used against you for
8 purposes of such a prosecution.

9 Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: What's your full name, sir?

12 THE DEFENDANT: Darrell Lorenzo Jones.

13 THE COURT: Say the middle name again.

14 THE DEFENDANT: Lorenzo.

15 THE COURT: Lorenzo. How old are you, sir?

16 THE DEFENDANT: Fifty.

17 THE COURT: Do you read, write, speak and understand
18 the English language?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: How far did you go in school?

21 THE DEFENDANT: Some college.

22 THE COURT: Have you been treated within the last
23 three months for any mental illness or for addiction to drugs
24 or to alcohol?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: Have you, either today or at any other
2 time in your life, taken or used any drugs, marijuana, alcohol,
3 medication or any other substance which currently affects your
4 ability to think or to understand these proceedings that are
5 going on here today?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: Ms. Brody, have you discussed this matter
8 fully with Mr. Jones?

9 MS. BRODY: I have, Judge.

10 THE COURT: Are you satisfied that he is fully
11 capable of understanding and participating in this proceeding?

12 MS. BRODY: Yes, your Honor.

13 THE COURT: Mr. Raymond, do you have any doubt that
14 the defendant is competent to participate in this proceeding?

15 MR. RAYMOND: No doubts, your Honor.

16 THE COURT: I'm satisfied on the basis of these
17 representations and my observations of Darrell Jones that he is
18 fully competent to understand and participate in this
19 proceeding.

20 Mr. Jones, you are charged by this superseding felony
21 information with one count of possession of a firearm in
22 furtherance of a drug trafficking crime, and one count of
23 possession with intent to distribute a controlled substance,
24 specifically 100 grams and more of mixtures and substances
25 containing a detectable amount of heroin.

1 Ms. Embola, would you arraign the defendant on the
2 waiver of indictment, please.

3 THE CLERK: Mr. Jones, have you signed this waiver of
4 indictment?

5 THE DEFENDANT: Yes, ma'am.

6 THE CLERK: Have you signed it voluntarily?

7 THE DEFENDANT: Yes, ma'am.

8 THE CLERK: Before signing this waiver, did you
9 discuss it with your attorney?

10 THE DEFENDANT: Yes, ma'am.

11 THE CLERK: Did your attorney explain this waiver to
12 you?

13 THE DEFENDANT: Yes, ma'am.

14 THE CLERK: Do you understand that you are under no
15 obligation to waive indictment?

16 THE DEFENDANT: Yes, ma'am.

17 THE CLERK: Do you understand that if you don't waive
18 indictment and the government wants to prosecute you, you'll
19 have to present your case to a Grand Jury which may or may not
20 indict you?

21 THE DEFENDANT: Yes, ma'am.

22 THE CLERK: Do you understand what a Grand Jury is?

23 THE DEFENDANT: Yes, ma'am.

24 THE CLERK: Have you seen a copy of the felony
25 information?

1 THE DEFENDANT: Yes, ma'am.

2 THE CLERK: Do you waive its public reading?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: The written waiver of indictment is
5 accepted. I'm signing the original and I'm marking it as Court
6 Exhibit 1 for today's date.

7 Judge Román does have a standing order permitting a
8 guilty plea to be entered before the designated Magistrate
9 Judge.

10 Ms. Brody, is it your client's wish to proceed before
11 me?

12 MS. BRODY: It is, your Honor.

13 THE COURT: Mr. Jones, this proceeding is referred to
14 as a plea allocution. I want you to understand that you have
15 the absolute right to have this plea allocution conducted
16 before a United States District Judge. It is the District
17 Judge, in this case Judge Román, who will impose sentence in
18 your case. If you consent and if you agree, then I will
19 conduct the plea allocution, and I will then make a report to
20 Judge Román in which I will recommend whether or not he should
21 accept your plea of guilty.

22 I will make that recommendation based on the
23 information that is brought out during today's proceedings. It
24 is important for you to understand that the Court will not
25 accept your plea unless the Court is satisfied that you fully

1 understand all of your rights and that you are, in fact,
2 guilty.

3 Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that you have an
6 absolute right to have this plea allocution conducted before a
7 United States District Judge?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Do you agree and is it your wish that I
10 should conduct the plea allocution?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Ms. Embola, would you have the defendant
13 identify his signature on the consent form, please.

14 THE CLERK: Mr. Jones, I show you this consent form.
15 Is this your signature affixed to the document?

16 THE DEFENDANT: Yes, ma'am.

17 THE CLERK: Have you signed this document -- have you
18 read this document and discussed it with your attorney?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Did anyone threaten you or coerce you or
21 promise you anything in order to get you to sign this consent
22 form?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: Did you sign the form freely and
25 voluntarily?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Ms. Brody, do you know of any reason why
3 the waiver and consent to proceed with a felony plea allocution
4 before a United States Magistrate Judge should not be accepted?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: I find that Darrell Jones is fully
7 competent and capable of waiving his right to appear before a
8 United States District Judge in order to enter his plea of
9 guilty. I therefore accept the consent form which I have
10 signed. It has been marked as Court Exhibit 2 and will remain
11 in the Court's file.

12 Mr. Jones, do you understand that your right to be
13 represented by an attorney continues through every stage of the
14 proceedings, including trial and appeal, and that you have this
15 right whether or not you choose to plead guilty to these
16 offenses?

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Have you had sufficient opportunity to
20 consult with your attorney about your case and especially about
21 your decision to plead guilty?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Are you satisfied with the services which
24 counsel has provided to you?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Have you told Ms. Brody everything you
2 know about this case?

3 THE DEFENDANT: Yes.

4 THE COURT: I have before me a plea agreement dated
5 April 18. The original plea agreement should be marked as
6 Government Exhibit 1 and will remain in the custody of
7 government's counsel.

8 Ms. Embola, would you have the defendant identify his
9 signature on the last page of the plea agreement, please.

10 THE CLERK: Mr. Jones, I'm showing you this plea
11 agreement. Is this your signature affixed to the document?

12 THE DEFENDANT: Yes, ma'am.

13 THE CLERK: Have you read this document and discussed
14 it with your attorney?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Ms. Brody, did you review each and every
17 part of this plea agreement with Mr. Jones?

18 MS. BRODY: I did, Judge.

19 THE COURT: Mr. Jones, are you satisfied that you
20 understand the entire plea agreement which Ms. Brody has
21 reviewed with you?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you have any questions, either for
24 Ms. Brody or for me, about what this plea agreement says?

25 THE DEFENDANT: No, your Honor.

1 THE COURT: Does the plea agreement contain the
2 complete understanding between you and the government in
3 connection with this case?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that anything which is
6 not set forth in the written plea agreement, or which is not
7 told to me at this time on the record, will not be binding on
8 the outcome of this case?

9 Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Mr. Raymond, is there anything beyond the
12 written plea agreement that the Court should be aware of?

13 MR. RAYMOND: Your Honor, I just want to raise your
14 attention.

15 Ms. Brody reminded me right before we started
16 Mr. Jones was in state custody for about a month before he was
17 writtied over to federal custody, and then the writ -- the writ
18 was ultimately satisfied when the state dismissed their charges
19 in February, about a period of approximately two months. The
20 government will consent that that should run against Mr. Jones'
21 ultimate sentence.

22 THE COURT: He should get credit for --

23 MR. RAYMOND: He should be credited for that period,
24 yes, your Honor.

25 THE COURT: -- that period of time.

1 All right. I'm also a little confused, Mr. Raymond.
2 At the bottom of the first page it says, In addition to the
3 foregoing, the Court must order restitution as specified below
4 and I don't see any specified below.

5 MR. RAYMOND: Yes, your Honor. I think that is our
6 normal form language but there is no restitution in this case.

7 THE COURT: All right. I just wanted to clarify
8 that.

9 MR. RAYMOND: Thank you, your Honor.

10 MS. BRODY: They love to use forms. They love to cut
11 and paste on the third floor.

12 THE COURT: Ms. Brody, other than Mr. Raymond's
13 comment about Mr. Jones being credited with his time in state
14 custody, is there any other agreement that the Court should
15 know about?

16 MS. BRODY: No, Judge.

17 THE COURT: Mr. Jones, did you sign this plea
18 agreement freely and voluntarily?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Did anyone force you or coerce you or
21 threaten you or promise you anything other than what is set
22 forth in the written plea agreement in order to get you to sign
23 that plea agreement?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Mr. Jones, if you are convicted of the

1 two charges set forth in this superseding felony information,
2 either after trial or by plea of guilty, you would be subject
3 on Count One to a maximum term of imprisonment of 40 years, a
4 mandatory minimum term of imprisonment of 5 years, a maximum
5 term of supervised release of life, a mandatory minimum term of
6 supervised release of four years, a maximum fine of the
7 greatest of \$5 million or twice the gross gain or twice the
8 gross loss resulting from the offense and a mandatory \$100
9 special assessment.

10 You would be subject on Count Two to a maximum term
11 of imprisonment of life, a mandatory minimum term of
12 imprisonment of five years, which must be served consecutively
13 to any other term of imprisonment imposed, a maximum term of
14 supervised release of life, a mandatory minimum term of
15 supervised release of five years, a maximum fine of the
16 greatest of \$250,000 or twice the gross gain or twice the gross
17 loss resulting from the offense and a mandatory \$100 special
18 assessment.

19 The total maximum sentence of incarceration that you
20 would face on these two counts is life imprisonment with a
21 mandatory minimum of 10 years imprisonment, five years of which
22 must be served consecutively to any other term of imprisonment
23 imposed.

24 If you are sentenced to a term of imprisonment, even
25 if you are sentenced to the maximum term of imprisonment, and

1 if you are also sentenced to a term of supervised release, if
2 you then violate the conditions of supervised release, you
3 could be sentenced to an additional term of imprisonment for
4 violating the conditions of supervised release which in this
5 case, would be an additional term on Count One of up to three
6 years and an additional term for Count Two of up to five years
7 for an additional potential term of imprisonment totaling eight
8 years.

9 You are also subject to the possibility of an order
10 of forfeiture or restitution, and the Court is authorized to
11 order either forfeiture or restitution or both as a part of
12 your sentence, although the government has already indicated it
13 does not anticipate any order of restitution in the case.

14 Do you understand that, sir?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Mr. Raymond, what's the maximum
17 forfeiture amount?

18 MR. RAYMOND: Your Honor, the maximum forfeiture
19 amount would be \$18,000.

20 THE COURT: You have agreed in your plea agreement to
21 admit the forfeiture allegation in a maximum amount of \$18,000.
22 The government would, upon a finding of forfeiture which you
23 have agreed to admit, the government would be able to establish
24 that the value of the amount of proceeds traceable to the
25 narcotics transaction referenced in Count One of the indictment

1 totaled up to and no more than \$18,000. Upon establishing such
2 an amount, they would be entitled to seize or retain any money
3 or other thing of value up to that value representing the
4 proceeds of the offense to which you are offering a plea of
5 guilty in Count One.

6 If you did not admit the forfeiture allegation, you
7 would be entitled to a hearing to determine whether forfeiture
8 is appropriate. For purposes of such a hearing, you would be
9 entitled to the assistance of counsel and to the assignment of
10 counsel if you could not afford an attorney. By admitting to
11 the forfeiture allegation, you're giving up that right but you
12 retain the right to contest the amount of forfeiture in an
13 amount up to \$18,000.

14 Do you understand that, sir?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you understand that these are the
17 possible sentences that could be imposed following your plea of
18 guilty in this matter?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: I'm required to advise you that if you
21 are not a United States citizen, a finding that you are guilty
22 of a felony offense may have a negative impact upon your
23 immigration status, and upon any application you may have made
24 in the past or which you may make in the future, for permission
25 to remain in the United States or to become a United States

1 citizen. You also may be subject to an order of deportation as
2 a result of this guilty plea if you are not a United States
3 citizen, and under certain circumstances deportation may be
4 mandatory.

5 Additionally, if you are deported, you may be
6 prohibited from reentering the United States permanently,
7 unless you are able to get permission to reenter from the
8 Attorney General of the United States or from the Secretary of
9 Homeland Security.

10 Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you also understand that you are
13 pleading guilty to felony offenses and an adjudication of guilt
14 of a felony offense may deprive you of certain valuable civil
15 rights which may include the right to vote, the right to public
16 office, the right to serve on a jury, the right to possess any
17 type of firearm, including rifles and shotguns, the right to be
18 considered for certain types of employment, or to be bonded, or
19 to serve in the United States military, and the right to
20 possess or obtain certain government-issued licenses, including
21 licenses that may be required in certain professions and
22 occupations?

23 Do you understand that, sir?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you also understand that one effect of

1 a plea of guilty to a narcotics-related offense, such as that
2 which is charged in Count One, is that you may be ineligible
3 for certain federal and federally-funded benefits that you may
4 otherwise have been eligible for, including but not limited to,
5 Social Security, food stamp benefits, education loans or
6 grants, and public housing or housing subsidies?

7 Do you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Do you understand that this consequence
10 may be for a limited period of time, or it may be a permanent
11 barrier to your obtaining these benefits, depending on the
12 crime of conviction and your prior criminal record?

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Mr. Jones, do you understand that these
16 are the possible legal consequences of entering a guilty plea
17 in this case?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that the United States
20 Sentencing Commission has issued guidelines for judges to
21 follow in determining the appropriate sentence in a criminal
22 case?

23 Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you also understand that these

1 guidelines are not mandatory, but they must be considered by
2 the Court, along with other factors which are listed at Title
3 18, United States Code, Section 3553, and the judge must
4 consider all of those things when the judge determines the
5 appropriate sentence to impose, including whether to grant
6 departures from the guidelines, both upward departures and
7 downward departures?

8 Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Have you and Ms. Brody talked about how
11 the sentencing guidelines would be calculated in your case?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: The plea agreement in this case sets
14 forth a stipulated sentencing range of 262 to 327 months in
15 prison and a stipulated fine range of 30,000 to \$300,000.

16 Do you understand that these numbers represent an
17 understanding between you and your attorney and the attorney
18 for the government, and that these numbers are not binding on
19 the District Judge when he imposes sentence?

20 Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you understand that the District Judge
23 will consider the guidelines, but that he will impose a
24 sentence in accordance with the statute, which in this case
25 means that the prison term on Count One will be not more than

1 40 years and not less than five years, and the prison term on
2 Count Two will be not more than life and not less than five
3 years, which must run consecutively to any other term imposed?

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that the Court will not
7 be able to determine the appropriate sentence in your case
8 until after a presentence report has been prepared and until
9 you and your attorney, as well as the government, have had an
10 opportunity to challenge the facts that are reported in the
11 presentence report, as well as the calculation of the
12 sentencing guidelines range and any sentencing recommendation
13 in that report?

14 Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you also understand that if there are
17 any objections to the presentence report, that those objections
18 will be ruled on by the Court and, if necessary, a hearing will
19 be held to determine what information is relevant to the
20 Court's determination of the sentence?

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you also understand that you would
24 have the right to appeal any sentence that is greater than the
25 top end of the guidelines range set forth in the plea agreement

1 and that the government would have the right to appeal any
2 sentence that is lower than the bottom end of the guidelines
3 range set forth in the plea agreement?

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: You have specifically agreed that you
7 will not file a direct appeal, or a collateral challenge, or
8 seek a sentence modification of any sentence within or below
9 the stipulated guidelines range of 262 to 327 months in prison,
10 and that the government will not appeal any sentence within or
11 above the stipulated guidelines range.

12 You have also agreed not to appeal any term of
13 supervised release that is less than or equal to the statutory
14 maximum term for supervised release.

15 You have agreed not to appeal any fine that is less
16 than or equal to \$300,000, and the government has agreed not to
17 appeal any fine that is greater than or equal to \$30,000.

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you understand that one effect of the
21 plea agreement that you have entered into is that you are
22 giving up other rights that you might have had to appeal or
23 otherwise attack the sentence imposed by the Court, except that
24 you retain certain rights to assert a claim of ineffective
25 assistance of counsel, although you would waive certain rights,

1 such as any claim of ineffective assistance of counsel relating
2 to counsel's effectiveness during the sentencing proceeding?

3 Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Mr. Jones, do you also understand that if
6 you disagree with the Court's sentencing decision, that will
7 not give you a basis for withdrawing your plea of guilty?

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that parole has been
11 abolished and if you are sentenced to a term of imprisonment,
12 you will not be eligible for early release on parole?

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Even though you would not be eligible for
16 parole, you may, if you are sentenced to a term of
17 imprisonment, be eligible to earn credit for good behavior, but
18 even if you were to succeed in earning credit for good
19 behavior, you would be required to serve at least 85 percent of
20 any prison term before you may be eligible for release.

21 Do you understand that, sir?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that you do not have to
24 plead guilty and you have an absolute right to plead not guilty
25 and to have the matter go to trial by judge or by jury?

1 Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that if you choose to
4 plead not guilty, you are entitled to have a speedy and public
5 trial of your case?

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that at any trial of
9 this matter, you would be entitled to the presumption of
10 innocence, and that the presumption would remain with you until
11 the government proves each and every element of any one or more
12 of the crimes charged against you beyond a reasonable doubt to
13 the satisfaction of the judge, if it is a judge trial, or to
14 the unanimous satisfaction of the jury, if it is a jury trial?

15 Do you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: At such a trial, you would have the
18 right, with the assistance of your attorney, to confront and
19 cross examine the witnesses against you. You would have the
20 right to call witnesses to testify for you and to have
21 subpoenas issued to compel witnesses to give testimony and to
22 produce evidence.

23 You would also have the right to testify at your
24 trial, but you could not be forced to testify. If you decided
25 not to testify, your decision to remain silent could not be

1 held against you in any way. At your trial, you would also
2 have the right I have spoken of, to the assistance of an
3 attorney, and to have an attorney appointed to represent you
4 without fee if you could not afford counsel. Additionally, if
5 you were convicted of any charge at trial, you would have the
6 right to appeal from the verdict.

7 Do you understand that if you plead guilty to the
8 charges in this superseding felony information, that you would
9 give up your right to a trial, and except for the right to
10 counsel, which you retain, you would also give up all the other
11 rights which I have explained to you here?

12 Do you understand that, sir?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Mr. Jones, have you clearly heard and
15 understood everything I've said to you?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Have you understood each of the rights
18 that I have asked you about?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you have any questions, either for me
21 or for Ms. Brody, about anything I've said or about anything
22 I've asked you?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: You may be seated.

25 Mr. Raymond, what are the elements of the offenses

1 and what is the government prepared to prove at trial in order
2 to establish those elements?

3 MR. RAYMOND: Thank you, your Honor.

4 The elements of Count One are that the defendant
5 possessed a mixture or substance containing a controlled
6 substance; that he did so knowingly or intentionally; that he
7 intended to distribute the controlled substance, and in this
8 case that the controlled substance was 100 grams and more of
9 heroin.

10 With respect to Count Two, the elements are that the
11 defendant possessed and carried and used a gun; and, second,
12 that he did so in furtherance of his narcotics trafficking,
13 namely, that charged in Count One.

14 The government would also have to prove by a
15 preponderance of the evidence that venue within the Southern
16 District is proper.

17 Your Honor, the government would prove at trial
18 beyond a reasonable doubt that in or about November 2018, the
19 defendant possessed 300 grams of heroin which he intended to
20 distribute, and a firearm at his apartment, which is located in
21 Mount Vernon.

22 The evidence the government would submit at trial
23 would include among other evidence, evidence including audio
24 and surveillance of controlled purchases of heroin from
25 Mr. Jones in July and August 2018. And then, after obtaining a

1 search warrant of his house in mid-November, towards the end of
2 November, November 24th, 2018, the results of that search
3 warrant, namely, mail addressed to him showing that he lived at
4 the apartment; approximately 300 grams of heroin, and a firearm
5 which had been separated, its top receiver and its bottom
6 receiver, which was found in close proximity to the 300 grams
7 of heroin.

8 THE COURT: And with regard to the forfeiture?

9 MR. RAYMOND: Your Honor, that's an estimate of the
10 approximate street value of 300 grams of heroin.

11 THE COURT: All right. Thank you.

12 MR. RAYMOND: Thank you, your Honor.

13 THE COURT: Mr. Jones, stand up.

14 Did you hear and understand what the Assistant United
15 States Attorney said?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you understand the elements of the
18 offenses to which you are offering a guilty plea?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: At this time, how do you wish to plead to
21 the charge of possession with intent to distribute a controlled
22 substance, specifically, 100 grams and more of substances
23 containing a detectable amount of heroin as charged in Count
24 One of the pending superseding felony information?

25 How do you wish to plead?

1 THE DEFENDANT: Guilty.

2 THE COURT: How do you wish to plead to the charge of
3 possession of a firearm in furtherance of a narcotics
4 trafficking activity as charged in Count Two of the pending
5 superseding felony information?

6 How do you wish to plead?

7 THE DEFENDANT: Guilty.

8 THE COURT: Do you wish to admit or deny the
9 forfeiture allegation in a maximum amount of \$18,000?

10 THE DEFENDANT: Admit.

11 THE COURT: Has anyone threatened you or coerced you
12 or pressured you improperly in order to get you to plead guilty
13 to these charges and admit to this forfeiture allegation?

14 THE DEFENDANT: No, your Honor.

15 THE COURT: Has anyone made any promises to you,
16 other than what is set forth in the plea agreement in order to
17 induce you to plead guilty and to admit to this forfeiture
18 allegation?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: Has anyone made any specific promise to
21 you about what the sentence of the Court will be?

22 THE DEFENDANT: No, your Honor.

23 THE COURT: Mr. Jones, tell me what you did to commit
24 these crimes.

25 THE DEFENDANT: In and around November 2018, I

1 intentionally and knowingly possessed with intent to distribute
2 more than 100 grams of heroin. I knew this was a crime and
3 illegal. This took place in Mount Vernon, New York.

4 Count Two. In connection with my drug trafficking, I
5 knowingly possessed a firearm. I knew this was a crime and
6 illegal. Again, this was in the city of Mount Vernon,
7 New York.

8 THE COURT: Did you possess the firearm in order to
9 protect and maintain the narcotics?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: And you said it was more than 100 grams.
12 Was it, in fact, approximately 300 grams of substances
13 containing heroin?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: It was your intention to distribute that
16 substance?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And when I say distribute, would you have
19 intended to sell or exchange it for things of value, including
20 money and other things of value?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you agree that the value of the heroin
23 had a maximum value of \$18,000?

24 THE DEFENDANT: Yes.

25 THE COURT: Did you commit these acts knowingly and

1 willfully?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Did you know it was against the law to do
4 what you were doing?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Is there anything else which either
7 counsel believes the Court needs to elicit from the defendant
8 before making the recommendation contemplated by Rule 11?

9 Mr. Raymond.

10 MR. RAYMOND: No, your Honor, thank you.

11 THE COURT: Ms. Brody?

12 MS. BRODY: No, Judge, we thank you.

13 THE COURT: Ms. Brody, do you know of any reason why
14 the Court should not recommend acceptance of your client's plea
15 of guilty?

16 MS. BRODY: We do not, Judge.

17 THE COURT: Mr. Raymond, do you know of any reason
18 why the Court should not recommend acceptance of the plea?

19 MR. RAYMOND: No, your Honor.

20 THE COURT: Mr. Jones.

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: In light of everything that has been said
23 here today, including a statement of the charges against you,
24 the possible penalties you face, and the rights you are giving
25 up, is it still your wish to plead guilty to the two charges

1 set forth in this superseding felony information and to admit
2 the forfeiture allegation in the maximum amount of \$18,000?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Upon this allocution, I find that the
5 defendant, Darrell Jones, is fully competent and capable of
6 entering an informed plea. The plea is knowing and voluntary
7 and is supported by an independent factual basis for each and
8 every element of the crimes charged.

9 Accordingly, I respectfully report and recommend to
10 Judge Román that the plea should be accepted and that the
11 defendant should be adjudged guilty of the two offenses charged
12 in the superseding felony information S1 19CR35.

13 I further report and recommend that the defendant
14 shall be deemed to have admitted the forfeiture allegation in a
15 maximum amount of \$18,000.

16 I direct that a presentence investigation be
17 conducted by the United States Department of Probation.

18 Mr. Jones, after this proceeding, Ms. Brody is going
19 to go to the Department of Probation on the ground floor of
20 this building and she's going to make arrangements for you to
21 be interviewed by a representative of the Department of
22 Probation. I'm sure she will assist you in connection with
23 that interview, and you are entitled to have her present during
24 the interview, if you wish. You must be fully honest and
25 truthful during that interview, because if it comes to the

1 Court's attention that you have provided false, incomplete or
2 misleading information, that may be held against you at the
3 time of sentencing.

4 Do you understand that?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Just a reminder, Ms. Brody, the interview
7 with Probation must be scheduled to occur within 14 days.

8 Mr. Raymond, the prosecution case summary likewise is
9 to be delivered to probation no later than 14 days from today.

10 MR. RAYMOND: Thank you, your Honor.

11 THE COURT: I further direct the clerk of the court
12 to provide a transcript of these proceedings within 30 days
13 setting forth my report and recommendation to Judge Román. The
14 transcript is to come to me for review.

15 Detention is continued.

16 The matter is adjourned for sentencing, September 19
17 at 10:30 a.m. Counsel should contact Judge Román's chambers
18 prior to that date to confirm the date and time of sentencing.

19 Is there anything further, Mr. Raymond?

20 MR. RAYMOND: No. Thank you very much, your Honor.

21 THE COURT: Ms. Brody?

22 MS. BRODY: No, Judge. What was the date and time of
23 sentencing?

24 THE COURT: September 19, 10:30 a.m.

25 MS. BRODY: Thank you.

1 MR. RAYMOND: Thank you, your Honor.

2 THE COURT: Thank you. We are adjourned.

3 (Proceedings concluded).

4 Certified to be a true and accurate
5 transcript of the digital electronic
6 recording to the best of my ability.

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8 U.S. District Court

9 Official Court Reporter

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